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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,459	04/24/2000	Mark Vincent Shoen	57111-5072	7663

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EXAMINER

YEAGLEY, DANIEL S

ART UNIT PAPER NUMBER

3611

DATE MAILED: 06/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,459

Applicant(s)

SHOEN, MARK VINCENT

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7, 9-13, 15-17, 19, 20 and 23-39 is/are pending in the application.
- 4a) Of the above claim(s) 25 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9-13, 15-17, 19, 20, 23, 24 and 27-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The extension of time and the amendment filed 4/9/02 have been entered.

Specification

2. The disclosure is objected to because of the following informalities:

page 7, line 28, after the word "edge" insert the numeral --24a--

page 7, line 29, change the numeral "24a" to --24--,

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 28, paragraph (e), line 4, recites the limitation "said entire bottom edge (20c) of the top portion" which lacks antecedent basis in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 34 - 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Whitton '516.

Whitton show a continuous curved fender (numeral 3 and 6) with a uniformed cross-section which is curved radially downward in a longitudinal direction as seen in figure 3, that includes a curved surface as shown in figure 4 in a lateral direction of the fender to an outer edge with an outer wall extending downward from the outer edge of the top portion, and a clearance increasing portion depending downward from an inner edge of the top portion at a non-zero acute angle in a plane with an inner wall lower portion of numeral 6 depending downward from the increasing portion at a second non-zero acute angle in a second plane such that the top portion and the inner wall are oriented substantially perpendicular and the planes are non-coplanar and the angles are each between about 1 and 89 degrees, and wherein the clearance increasing portion is concaved in a longitudinal direction of the fender as shown in figure 1, Whitton further shows a light housing numerals 5 and 10 mounted to the fenders which is offset from a longitudinal midline of the fender.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 - 3, 6, 7, 9, 17, 29 - 31 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitton '516 in view of Caponi '705.

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Whitton as stated above shows a curved fender in conjunction with a wheel wherein an outer wall depends downward from the outer edge of the top portion of the fender that appears from figure 2 and 3 to cover at least part of the wheel, with an increasing portion depending downward from the inner edge of the top portion of the fender with an inner wall (lower portion of numeral 6) extending downward from the increasing portion of numeral 3 and 6 wherein the angles are between 1 – 89 at about 40 – 50 degrees that add up to about 90 degrees between the upper portion and the inner wall, with a light housing numerals 5 and 10 mounted to the fender offset from a longitudinal midline of the fender but failed to show the light housing attached to the curved surface of the top portion.

Caponi shows a curved fender with a light attached to a top portion of the fender utilizing a light housing with a raised portion 14 adapted to receive a light fixture 34 that conforms to at least a portion of the curved surface which teaches the prior art of attaching a light fixture to the curved portion of the fender in an offset position as clearly shown in figure 1 of Caponi.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the fender of Whitton and attached a light to the curved portion of the fender using a light housing that conforms to at least a portion of the curved surface such as shown by the fender light of Caponi to add safety turn lights to the vehicle for added safety or as an alternate mounting location for a head lamp as is well known in the vehicle art.

9. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitton '516 as modified by Caponi '705 in further view of Hardwick '808.

Whitton '516 as modified by Caponi '705 failed to show a fender wherein the top portion comprises a plurality of planer sections with a substantially flat middle section and two curved end sections. Hardwick shows a fender having a clearance increasing portion and inner and outer wall depending from the top portion of the fender which shows the prior art of constructing a fender such that the top portion comprises a substantially flat middle section and is curved downward at the end sections having a plurality of planer sections as shown in figure 1 of Hardwick.

It would have been obvious to one of ordinary skill in the art to have further modified the fender of Whitton as modified by Caponi with a fender such as shown by Hardwick having the top portion of the fender comprises a substantially flat middle section and curved downward at the end sections having a plurality of planer sections as clearly shown in figure 1 of Hardwick to cover alternative additional wheels of a vehicle, dependent only upon if more than one wheel of a vehicle is to be covered such as in the case of the fender as shown in the dual wheeled vehicle of Hardwick.

10. Claims 1 - 3, 6, 9 - 13, 15 - 17, 19, 20, 23, 24 and 27 - 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poveromo '664 in view of Poveromo '749.

Poveromo '664 shows in figure 1 a plurality of fenders 20,22 on a trailer or tow dolly, with a light housing 50 attached to a top of the fender in an offset manner from a midline of the fender as claimed, the fender as shown in figure 3, and figure 7 show the top portion with a flat middle section and curved end sections at opposed inner and outer edges of the top portion with an outer wall extending downward from the outer edge of the top portion and a clearance

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increasing portion (angled portion) depending downward at a non-zero acute angle of about 1 – 89 degrees from the inner edge of the top portion to an inner wall that depends downward at a non-zero acute angle which is perpendicular to the top portion at approximately 90 degrees, figure 5 shows an alternate embodiment of a fender with a plurality of planer sections which is curved in the longitudinal direction and figure 8 appears to show all the bottom edges of the curved fender at their longitudinal ends of the top portion, inner and outer walls and clearance increasing portion all lying in a common plane as claimed wherein the light housing is attached to the curved portion of the fender by an integral base.

Poveromo '749 shows in figure 1 a plurality of fenders on a trailer or tow dolly with a light housing attached to a top portion of the fender, figure 7 shows the top portion with a flat middle section and curved end sections which is curved in the longitudinal direction, wherein figure 4 more clearly shows the light housing with a base portion 86 that conforms to at least a portion of the curved surface of the fender for attaching the light housing to the curved surface of a top portion of the fender such as that claimed by applicant and wherein the raised portion 78 of Poveromo '749 or the raised portion 62 of Poveromo '664 are clearly capable of being attached to the base portion 86 as modified.

It would have been obvious to one of ordinary skill in the art to have combined the teaching of the Poveromo references and mounted the light housing in an offset manner utilizing a base portion that conforming to the curved portion of the fender as disclosed by the Poveromo references to mount the light housing to the fender without the integral mounting piece to reduce manufacturing cost and to have added the clearance increasing portion to the fender to accommodate a wider tire dependent upon the users preference and the vehicles intended use.

Response to Arguments

11. Applicant's arguments filed 4/9/02 have been fully considered but they are not persuasive.

Poveromo '664 does show a curved fender as seen in the embodiment of figure 4 which clearly shows the fender being curved in both a radially downward direction in the longitudinal direction of the fender and also curved in the lateral direction as seen on the inner side of the top portion in figure 4, with the light housing base integrally mounted to the curved surface of the top portion by gussets shown in figure 2, wherein figure 3, clearly shows a clearance increasing portion extending downward from the top surface at an acute angle covering a part of the tire. Poveromo '749 has been cited as better showing the prior art of a light housing base conformed to the curved surface of the top portion of a fender as claimed, Hardwick '808 shows a clearance increasing portion as indicted by applicant as element A and as disclosed in Hardwick is mounted to numeral 11 and 12, the inner surface of the walking beams being the inner wall extending downward from the angled clearance increasing portion forming a 90 degree angle between the vertical wall and the top portion.

Upon further review of the prior art and the broad interpretation of the claim language of claim 17; the indicated allowability of claim 17 is withdrawn in view of the reference cited above which show the clearance increasing portion depending downward from the top portion and is concaved in a longitudinal direction of the fender as well as in a lateral direction with respect to the interior surface of the increasing portion.

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Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Frentzen '710 shows a curved fender having a top portion, an inner wall and a clearance increasing portion

Hollingworth, Jr. '307 shows a trailer/dolly having a curved fender which includes a light and includes a clearance increasing portion

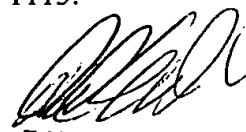
Watanabe '834 shows a curved fender which includes a light offset from a midline and includes a clearance increasing portion extending downward at an acute angle

Vidal '208 shows a trailer/dolly having a curved fender having a clearance increasing portion.

Acosta Dig '328 shows a trailer/dolly having a curved fender with a light housing which conforms to at least a portion of the curved surface of the fender that includes a raised portion to receive a light fixture

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is 703-305-0838. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

D.Y.
May 31, 2002


DANIEL G. DePUMPO
PRIMARY EXAMINER